

Department of Marine Resources

NOTICE OF AGENCY RULE-MAKING PROPOSAL

RULE TITLE: Ch. 11.09 Atlantic Sea Scallop Harvesting Season, and Ch. 11.10(1)(H) Closed Areas

CONCISE SUMMARY: The proposed amendments would establish nine scallop conservation closures and a 70-day scallop season divided into two 35-day segments for the 2009-2010 scallop fishing season. The proposed days "on" would be December 1, 2009 through January 4, 2010 and February 25, 2010 through March 31, 2010 (all dates inclusive). The Department is accepting comments on changes to the proposed open days provided they do not exceed 70 days, with no dates prior to December 1 and no later than March 31. The proposed nine closed areas coastwide would sunset after 3 seasons.

STATUTORY AUTHORITY: 12 M.R.S.A. §6171

PUBLIC HEARINGS*: Mon., July 20, 2009, 6:00pm, Yarmouth Town Hall, Community Rm, 200 Main St, Yarmouth

Tue., July 21, 2009, 6:00pm, UMM, Science Lecture Hall (Rm 102), 9 O'Brien Ave., Machias

Thur., July 23, 2009, 6:00pm, Ellsworth City Hall (Auditorium), One City Hall Plaza, Ellsworth

Fri., July 24, 2009, 6:00pm, State Ferry Terminal, Conf. Rm, 517A Maine St., Rockland

**Public hearings for two proposed rules will be held starting with the proposed season and closed areas, followed by the proposed Whiting and Denny's Bays closure rules. The second hearing will be held immediately upon the conclusion of the previous hearing. See separate rulemaking notice for the rule not listed in this notice.*

DEADLINE FOR COMMENTS: August 3, 2009

To ensure consideration, comments must include your name and the organization you represent, if any. Please be aware that any risk of non-delivery associated with submissions by fax or e-mail is on the sender.

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Hearing facilities:

If you require accommodations due to disability, please contact Amanda Beckwith, at (207) 287-7578.

Additional information:

Maine scallop landings have declined precipitously from a peak of nearly 4 million pounds in 1980-1981 to less than a half million pounds each year since 2001. DMR began a dredge-based fishery-independent survey of the state scallop resource in 2002. Coast wide surveys in 2002 and 2003 found the resource to be healthiest in Cobscook Bay and small portions of eastern Maine, with patchy and poor abundance along the rest of the coast. Survey results from 2005 to 2008 indicate a significant decline in scallop abundance in most coastal Maine areas. In western Maine, overall scallop abundance declined by an average of more than 50% between 2003 and 2005. Eastern Maine populations are also declining, with an overall drop between 2003 and 2006. The 2008 survey examined the eastern Maine coast outside of Cobscook Bay. Although the results have not yet been analyzed, observations indicate scallop abundance remains patchy and very low.

The Department and the Scallop Advisory Council (SAC) have spent over 18 months developing a strategic plan to manage Maine's scallop resource. Conservation closures received broad support during this process. The Department announced in January 2009 that the 2009/2010 scallop season would not be opened unless substantial conservation closures were established. Six public meetings were held in April to solicit closure recommendations from area fishermen, and these recommendations were shared with the SAC. In May, the Commissioner presented his proposal for 8 conservation closures to the SAC. This proposal was based on area meeting recommendations, survey data, and consultations with Marine Patrol, scientific and management staff. At their May 21 meeting, the SAC opted to accept five of the closures as drawn, to redraw three and to add a ninth to protect sublegal scallops in upper Blue Hill Bay. The Commissioner accepted their recommendation with one exception, which was to extend the northern boundary of the Sheepscot River Closure. At the May 21 SAC meeting, Department staff had indicated the Sheepscot boundary suggested by the SAC was unacceptable and would likely be moved northward.

Concerning the season, Department staff indicated they would support no more than 70 days for the 2009-2010 fishing season. At their May 21 meeting, the SAC recommended two 35-day seasons: from December 1 through January 4 and February 25 through March 31. However they also indicated they were anxious to hear what season options other fishermen preferred, particularly if there is broad support for a four or five-day fishing week that spans a single time period rather than having a split season.

Proposed rulemaking – see underlined or ~~deleted~~ text below:

Chapter 11 Scallops

11.09 Atlantic Sea Scallop Harvesting Season

The Atlantic Sea Scallop Harvesting Season in Maine's Territorial waters is open December 1, 2009~~8~~ through January 4, 2010~~09~~ and February 25, 2010~~09~~ through March 31, 2010~~09~~, all dates inclusive; this season sunsets May 1, 2010~~09~~.

11.10 Atlantic Sea Scallops - Limitations

1. Size, Harvesting and Conservation Zone Regulations

H. Closed Areas

It shall be unlawful to fish for or take scallops by any method within any of the following areas.

Transiting exception:

Any vessel possessing scallops onboard, may transit these closed areas, only if the vessel has all fishing gear (dredges, drags) securely stowed. Securely stowed shall mean the main wire shall not be shackled or connected to the dredges or drags, and the towing swivel will be at block or on the winch.

(1) Casco Bay Area:

South of a line drawn from the most southwestern point of Basin Point to the northeastern tip of Jewell Island, and south and west of a line drawn from the southern tip of Jewell Island due south to the 3 mile line. Also, west of a point drawn from Gun Point due south to the 3-mile line.

(2) Damariscotta/Sheepscot Area:

South and east of a line drawn from the most northeastern point of Dogfish Head to the most northeastern point of Macmahan Island, and south of a line drawn from the most northwestern point of Macmahan Island to the most northeastern tip of Soldier Point. Then south and east of a line drawn from the most southwestern point of Indian Point to the most northeastern point of Salter Island, and east of a line drawn from the most southwestern tip of Salter Island to the most northwestern point of Sequin Island. Then north of a line drawn from the most southern point of Sequin Island to Bantam Rock, north and west of a line continuing to the most southern point of Pumpkin Island, continuing to the Outer Heron Island Ledge Buoy, continuing to the most southeastern point of Thrumcap Island, following the shoreline to the most southwestern point of Thrumcap Island, and north and west of a line drawn from this point to the most southern tip of Shipley Point, following the shoreline of Rutherford Island. Also, west of the South Bristol Bridge, and south of a line drawn from the most southern tip of Jones Point to the most northeastern tip of Montgomery Point.

(3) Muscongus/Western Penobscot Area:

West of a line starting at Whitehead Island, St. George, then in a SE direction to the southern end of Two Bush Is. and continuing in a SE direction to the Foster's Ledges Buoy R N10 then due South to the Three Mile line and east of a line starting at Brown's Head, South Bristol continuing in an easterly direction to the northern most end of Ross Is. and east to the northern end of Franklin Island, , Muscongus Bay east to the southern end of Davis Island then east to R 2 "OC" (Old Cilley Ledge Bell) and continuing southeast to the southern tip of Metinic Green Island and due south to the Three Mile Line.

(4) Eastern Penobscot Area:

The Eggemoggin Reach SE of the Deer Isle Bridge and west of a line starting at Naskeag Pt., Brooklin continuing due South to the Three Mile Line and east of a line starting at Coles Pt. on Whitmore Neck, Deer Isle then in a SE direction to the west side of Millet Island, continuing South to Rich's Pt., Isle au Haut and following the eastern shore of Isle au Haut to the most southern tip of Eastern Head then due South to the Three Mile line.

(5) Blue Hill Harbor/Morgans Bay Area:

North of a line drawn from Stills Point, Blue Hill Neck to the most northern point of Long Island, and north of a line drawn from the most northern point of Long Island to the most southwestern point of Newbury Neck.

(6) Mt. Desert Area:

All of Somes Sound and east of a line starting at Bass Harbor Head then in a southeast direction to the most easterly Point of Great Gott Island continuing on south to the three mile line and west of a line starting at the most eastern side of Otter Pt. MDI continuing True South to the Three Mile Line.

(7) Gouldsboro Bay Area:

Inside and north of a line starting at Young's Point, Corea east to the end of Dyer Pt. in Steuben.

(8) Jonesport/Machias Area:

(a) The Reach: East and north of a line starting at the most eastern end of Tibbett Island then east to the most northern end of Ram Island then on to the most western end of Slate Island and west of a line starting at the end of the breakwater Sawyer's Cove the southeast to the most western end of Pig Island and then due south to the closes point of land of Great Wass Island.

(b) Chandler Bay/Englishman's Bay: North of a line starting at Loon Point, Jonesport extending east to the most southern tip of Great Spruce Island. Additionally, north of a line starting at the most northeastern point of Great Head, Roque Island then northeast to the most southern end of Shoppee Point, Roque Bluffs.

(c) Machias Area: North and west of a line starting at Bucks Head, Machiasport proceeding east to the southern end of Northwest Head on Cross Island then due south to the 3-mile line, and east of a line drawn due south from Great Head, Cutler to the 3-mile line.

(9) St. Croix River Area:

North and east of a line drawn from the Gleason Point, Perry east to the US-Canada border.

This regulation, Chapter 11.10(1)(H), expires May 1, 2012.

~~(1) Southern Closure:~~

~~Western Boundary: The Maine/New Hampshire Border to the 3-mile limit, as identified on National Oceanographic and Atmospheric Administration nautical charts, hereafter referred to as the 3-mile limit.
Eastern Boundary: A line drawn from Wood Island Light 180° magnetic south to the three-mile limit.~~

~~(2) Casco Bay Closure:~~

~~Western Casco Bay Closure: All territorial waters located between:~~

~~Western Boundary: A straight line from Adams Head, Richmond Island, east to RW "P" Horn (43-degrees 31.60' N Latitude, 70-degrees 05.49' W Longitude).~~

~~Eastern Boundary: A straight line from Portland Head Light, SSE to RW "P" Horn (43-degrees 31.60' N Latitude, 70-degrees 05.49' W Longitude).~~

~~Eastern Casco Bay Closure: All territorial waters located between:~~

~~Western Boundary: A straight line from the southern end of Jaquish Island SW to RW "P" Horn (43-degrees 31.60' N Latitude, 70-degrees 05.49' W Longitude).~~

~~Eastern Boundary: A straight line from Outer Head Griffith Head in the mouth of the Sheepscot River to R "20ML" Bell (43-degrees 41.45' N Latitude, 069-degrees 45.29' W Longitude) then proceeding due south 180-degrees magnetic to the three-mile limit.~~

~~(3) Western Penobscot Closure:~~

~~Western Boundary: Beginning at Owls Head Light due southeast to the most eastern tip of Monroe's Island, thence southeast to the R N #10 nun buoy at Foster Ledges.~~

~~Eastern Boundary: From Head of the Cape at Cape Rosier due southwest to the western side of Stand-in Point, North Haven. Thence due south to the R N #10 nun buoy at Foster Ledges.~~

~~(4) Mt. Desert Closure s: Note: Open areas are included in this section for clarity.~~

~~Blue Hill Bay Area:~~

~~Closed: North of a line beginning at Lopaus Point, Tremont, due west to the most southern point of Pond Island, thence northwesterly to the end of Naskeag Point, Brooklin.~~

~~Open: West of a line beginning at Bass Harbor Head thence due SE to the southernmost end of Great Duck Island, thence due south 180-degrees magnetic to the three-mile limit.~~

~~Frenchman Bay Area:~~

~~Closed:~~

~~Western Boundary: Beginning at Bass Harbor Head, thence due SE to the southernmost end of Great Duck Island, then due south 180 magnetic to the three-mile limit.~~

~~Eastern Boundary: Beginning at Schoodic Point, thence due south 180 magnetic to the three-mile limit.~~

~~Northern Boundary: Beginning at the western tip of Hancock Point following a line to the northern tip of Ironbound Island, thence southeast to the most western tip of Grindstone Neck, Winter Harbor.~~

~~Open: North of a line beginning at the western tip of Hancock Point following a line to the northern tip of Ironbound Island, thence southeast to the most western tip of Grindstone Neck, Winter Harbor.~~

~~(5) Jonesport/Beals Closure:~~

~~Includes all the coastal waters northerly and inshore of the international bridge that connects Lubec to Campobello Island, New Brunswick, including the St. Croix River.~~

~~(6) Eastern Closure:~~

~~Western boundary: Beginning at Western Head thence due south 180° magnetic to the three-mile limit.~~

~~Eastern boundary: The United States/Canada Border to the 3-mile limit, as identified on National Oceanographic and Atmospheric Administration nautical charts, including all of Cobscook Bay.~~

This regulation, Chapter 11.10(H), expires May 1, 2009.